IN THE HIGH COURT OF JUDICATURE OF
CHHATTISGARH AT BILASPUR

W.P.NO. 3056 OF 2003

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITION OF INDIA

PETITIONER : SHIV CHARAN,
S/o. LATE PACHKOURI LAL
SUNKAR (SCHEDULED CASTE),
AGED ABOUT 40 YEARS, R/o.
DAYALBAND,
NEAR SITARAM MANDIR,
BILASPUR TAHSIL AND
DISTRICT BILASPUR(C.G.)
AT PRESENT
COMPANY OWNED
COMPANY OPERATED
RETAIL OUTLET (COCO)
SARANGARH,
TAHSIL SARANGARH,
DISTRICT RAIGARH (C.G.),

P. R. No. 2296/03
Presented by Shri M.K. Singh
dated 23.09.03

VERSUS

RESPONDENT : INDIAN OIL CORPORATION
LIMITED, ACTING THROUGH
SENIOR DIVISIONAL MANAGER
"INDIAN OIL BHAVAN"
RAJIV GANDHI MARG
(VIP ROAD) P.O. RAVIGRAM,
TELIBANDHA, RAIPUR (C.G.).

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT/WRITS, DIRECTION/DIRECTIONS AND/OR ORDER/ORDERS

(188) A.F.R.

HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Writ Petition No.3056 of 2003

Shiv Charan

- Versus -

Indian Oil Corporation Limited

POST FOR ORDER ON 8TH JULY, 200

Sd/-
L.C.BHADOO
Judge

7.7.2005

(130)

A.F.R

HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Writ Petition No.3056 of 2003

Shiv Charan

- Versus -

Indian Oil Corporation Limited-

Present: -

Mr. K.A. Ansari, Senior Advocate with Mr. Vipin Singh, Advocate: — For the petitioner.

Mr. Bhishma Kinger, Advocate: — For the respondent.

ORDER

(Passed on 8th July, 2005)

L.C. BHADOO, J.

1. By this writ petition under Article 226 of the Constitution of India, the petitioner has questioned the correctness and propriety of the show cause notice dated 25-8-2003 (Annexure P-24), whereby the petitioner was informed that his job is not being renewed with effect from 24-9-2003.

2. The case of the petitioner is that the respondent established a COCO retail outlet at Sarangarh and decided to give the same to a job contractor belonging to Scheduled Caste. The petitioner being eligible for the same as he had worked in Pachkouri Highway Service Station, a Bharat Petroleum Corporation petrol pump, and was an employee in the said petrol pump from 24-6-1985 to 30-6-2000 submitted his application (Annexure P-3) on 16-9-2002 through the Bilaspur Office. Apart from the petitioner certain other candidates were also interviewed at Raipur on 17th & 18th September, 2002, and after finding the petitioner suitable a letter dated 23-9-2002 was given to the petitioner appointing him as a Job Contractor for running the said COCO petrol pump at Sarangarh as a labour contractor on temporary basis till the appointment of a regular dealer by the Indian Oil Corporation Limited. It was further made clear that the appointment will subsist till the appointment of a dealer, strictly as per the sale performance achieved by the petitioner against the target given by the respondent. On the basis of the said appointment letter the petitioner obtained licence from the Collector, Raigarh. The petitioner also got certificates from the Weights &

Measurements Department. He also filled certain forms supplied by the respondent.

3. There are two kinds of petrol pumps, one is COCO Jubilee Retail outlet which consists of 6-8 pump machines, whereas the Sarangarh COCO retail outlet has only two machines one for petrol and one for diesel. The targets of COCO Jubilee retail outlet are very high, i.e. 24 KLS of petrol, 300 KLS of HSD and 3.5 KLS of Lubes, which were located generally on the national highways. The respondent obtained signature of the petitioner on the forms which were meant for COCO Jubilee Retail Outlet. The Explosive Department given licence to the petitioner on 22-7-2002, thereafter, the petitioner got electric connection from the M.P. Electricity Board. The retail outlet started functioning in the month of November, 2002. Job contract of 40 KLS has been fixed and the petitioner sold 48 KLS of HSD in November, 2002; 84 KLS in December, 2002; 60 KLS in January, 2003; 72 KLS in February, 2003; 48 KLS in March, 2003; 66 KLS in April, 2003; 75 KLS in May, 2003; 102 KLS in June, 2003; 96 KLS in July, 2003; and 33 KLS in August, 2003, whereas the respondent gave permission for selling petrol in the month of April, 2003 only.

4. The Officers of the respondent Company also inspected and checked the quality of oil products and even the Officers visited in intervals. To surprise of the petitioner he received a letter dated 24-3-2003 from the respondent and it was alleged that the sale of HSD from the outlet is going down after December, 2002, which was not correct. Therefore, the petitioner filed reply of the same. The petitioner again received a letter dated 29-3-2003 which is also a similar type of letter. On 8-8-2003 again the petitioner received a letter from the respondent in which it was mentioned that the minimum target of sale of MS is 24 KLS, HSD is 300 KLS and lubricant is 3.5 KLS per month, and the average sale of the petitioner's outlet is below the commitment given by the petitioner. The petitioner replied all the letters, however, the respondent gave the letter/show cause notice in question and decided not to renew the job contract for operating COCO-Sarangarh with effect from 24-9-2003. Therefore, the respondent be directed not to give effect to the show cause notice.

5. Return has been filed on behalf of the respondent in which it has been mentioned that the petitioner was appointed as job contractor on 23-9-2002. The petition is misconceived and untenable in law. As per the marketing

plan the said retail outlet is of Scheduled Caste category on regular basis, but as a COCO it is open category. However, it was non-jubilee. The documents are common for both, jubilee as well as non-jubilee and is always a temporary arrangement. As per the agreement Annexure P-8 the petitioner agreed, but he failed to achieve the targets. The performance of the petitioner was not satisfactory. The petitioner could not achieve the targets, therefore, notices Annexure P-20, P-21 & P-22 were sent, as such, the petition be dismissed.

6. I have heard learned counsel for the parties.

7. Having heard learned counsel for the parties, I have perused the record. It is admitted position that the petrol pump in question was given to the petitioner on job contract basis based on the agreement Annexure P-8 entered into between the parties. Letter dated 23-9-2002 (Annexure P-4) envisages that COCO petrol pump was given to the petitioner as a labour contractor on temporary basis till the appointment of a regular dealer by the Company and his continuance as job contractor till the appointment of regular dealer will be based strictly as per the sale performance achieved by the petitioner and targets given to the petitioner. It was mentioned in the last para of Annexure P-4 that on violation of the terms and conditions, the offer stands rejected.

8. It is also admitted position that COCO petrol pump in question at Sarangarh has been decided to be allotted to a person namely Dayaram Azad and he has been selected as a regular dealer. Based on the interview, the Indian Oil Corporation decided to allot the said petrol pump to Dayaram Azad. However, that selection was questioned in W.P.No.181/2004 and that writ petition has been being disposed of by a separate order. Even otherwise, as per the show cause notice issued by the respondent the petitioner was not able to achieve the targets. Since appointment letter dated 23-9-2002 envisages that the petrol pump in question was given to the petitioner on temporary basis till the appointment of regular dealer, and now, the regular dealer has already been selected, therefore, in view of this, the petitioner's petition is liable to be dismissed. Even otherwise, the petrol pump in question was given initially for a period of one year and same was mentioned in clause 5 of the agreement Annexure P-8 with the condition that it can be extended for one year more.

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9. Therefore, on these grounds that in the first instance, the term has expired and secondly the petrol pump in question has been awarded to a regular allottee, the instant writ petition is liable to be dismissed and it is accordingly, dismissed. However, there is no order as to costs.

Sd/-
L.C.BHADOO
Judge

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